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HOUSE BILL 277

47TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2005

INTRODUCED BY

Brian K. Moore

AN ACT

**RELATING TO MOTOR VEHICLES; CREATING THE DEPARTMENT OF MOTOR
VEHICLES; TRANSFERRING THE MOTOR VEHICLE DIVISION OF THE
TAXATION AND REVENUE DEPARTMENT, INCLUDING THE POWERS AND
PERSONNEL TO ADMINISTER AND ENFORCE THE MOTOR VEHICLE CODE AND
OTHER PROVISIONS OF LAW RELATING TO MOTOR VEHICLES, TO THE
DEPARTMENT OF MOTOR VEHICLES; TRANSFERRING THE MOTOR
TRANSPORTATION DIVISION OF THE DEPARTMENT OF PUBLIC SAFETY,
INCLUDING THE POWERS AND PERSONNEL TO ADMINISTER AND ENFORCE
THE MOTOR TRANSPORTATION ACT AND OTHER PROVISIONS OF LAW
RELATING TO MOTOR CARRIERS, TO THE DEPARTMENT OF MOTOR
VEHICLES; AMENDING AND ENACTING SECTIONS OF THE NMSA 1978.**

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

**Section 1. [NEW MATERIAL] SHORT TITLE. -- Sections 1
through 10 of this act may be cited as the "Department of Motor
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1 Vehicles Act".

2 Section 2. [NEW MATERIAL] PURPOSE. --The purpose of the
3 Department of Motor Vehicles Act is to establish a single,
4 unified department to administer and enforce laws and exercise
5 functions concerning motor vehicles currently administered,
6 enforced and exercised by the taxation and revenue department
7 and the department of public safety.

8 Section 3. [NEW MATERIAL] DEFINITIONS. --As used in the
9 Department of Motor Vehicles Act:

10 A. "department" means the department of motor
11 vehicles; and

12 B. "secretary" means the secretary of motor
13 vehicles.

14 Section 4. [NEW MATERIAL] DEPARTMENT CREATED. --The
15 "department of motor vehicles" is created in the executive
16 branch. The department is a cabinet department and consists of
17 one administrative division and two program divisions as
18 follows:

19 A. the motor vehicles division; and

20 B. the motor transportation division.

21 Section 5. [NEW MATERIAL] SECRETARY-- APPOINTMENT. --

22 A. The administrative head of the department is the
23 "secretary of motor vehicles". The secretary is appointed by
24 the governor with the consent of the senate and serves in the
25 executive cabinet.

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1 B. The appointed secretary serves and has all the
2 duties, responsibilities and authority of that office during
3 the period of time prior to final action by the senate
4 confirming or rejecting the appointment.

5 Section 6. [NEW MATERIAL] DIVISION DIRECTORS. --The
6 secretary appoints, with the approval of the governor,
7 directors of the divisions established within the department.
8 Division directors are exempt from the Personnel Act.

9 Section 7. [NEW MATERIAL] BUREAU CHIEFS. --The secretary
10 may establish within each division of the department those
11 bureaus the secretary deems necessary to carry out the
12 provisions of the Department of Motor Vehicles Act. The
13 secretary shall employ a chief to be the administrative head of
14 each bureau. The bureau chiefs and all subordinate employees
15 of the department are covered by the Personnel Act.

16 Section 8. [NEW MATERIAL] SECRETARY-- DUTIES AND GENERAL
17 POWERS. --

18 A. The secretary is responsible to the governor for
19 the operation of the department. It is the secretary's duty to
20 manage all operations of the department and to administer and
21 enforce the laws with which the secretary or the department is
22 charged.

23 B. To perform these duties, the secretary has every
24 power expressly enumerated in the laws, whether granted to the
25 secretary or the department or any division of the department,

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1 except where authority conferred upon any division is
2 explicitly exempted from the secretary's authority by statute.

3 In accordance with these provisions, the secretary shall:

4 (1) except as otherwise provided in the
5 Department of Motor Vehicles Act, exercise general supervisory
6 and appointing authority over all department employees, subject
7 to any applicable personnel laws and regulations;

8 (2) delegate authority to subordinates as the
9 secretary deems necessary and appropriate, clearly delineating
10 the limitations of authority;

11 (3) organize the department into those
12 organizational units the secretary deems will enable it to
13 function most efficiently, subject to any provisions of law
14 requiring or establishing specific organizational units;

15 (4) within the limitations of available
16 appropriations and applicable laws, employ and fix the
17 compensation of those persons necessary to discharge the
18 secretary's duties;

19 (5) take administrative action by issuing
20 orders and instructions, consistent with law, to ensure
21 compliance with the provisions of the Department of Motor
22 Vehicles Act, and enforce those orders and instructions by
23 appropriate administrative action or actions in the courts;

24 (6) conduct research that will improve the
25 operation of the department and the provision of services to

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1 the citizens of the state;

2 (7) provide courses of instruction and
3 practical training for employees of the department and for
4 other persons involved in the administration of programs in the
5 department with the objective of improving the operation and
6 efficiency of administration;

7 (8) prepare an annual budget for the
8 department;

9 (9) cooperate with administratively attached
10 agencies and adjunct agencies to:

11 (a) minimize or eliminate duplication of
12 services and jurisdictional conflicts;

13 (b) coordinate activities and resolve
14 problems of mutual concern; and

15 (c) resolve by agreement the manner and
16 extent to which the department shall provide budgeting, record
17 keeping and related clerical assistance to administratively
18 attached agencies;

19 (10) give bond in the penal sum of twenty-five
20 thousand dollars (\$25,000) and require directors to each give
21 bond in the penal sum of ten thousand dollars (\$10,000)
22 conditioned upon the faithful performance of duties as provided
23 in the Surety Bond Act. The department shall pay the costs of
24 these bonds; and

25 (11) require performance bonds of department

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1 employees and officers as the secretary deems necessary as
2 provided in the Surety Bond Act. The department shall pay the
3 costs of these bonds.

4 C. With the governor's approval and in the name of
5 the department, the secretary may apply for and receive public
6 or private funds, including United States government funds,
7 available to the department to carry out its programs, duties
8 or services.

9 D. When functions of departments are duplicated or
10 a function assigned to one department could be performed better
11 by another department, the secretary may recommend remedial
12 legislation to the next session of the legislature for its
13 approval.

14 E. The secretary may issue reasonable procedural
15 rules necessary to carry out the duties of the department. No
16 rule promulgated by the director of any division in carrying
17 out the functions and duties of the division shall be effective
18 until approved by the secretary, unless otherwise provided by
19 statute. Unless otherwise provided by statute, no rule
20 affecting any person or agency outside the department shall be
21 adopted, amended or repealed without a public hearing on the
22 proposed action before the secretary or a hearing officer
23 designated by the secretary. The public hearing shall be held
24 in Santa Fe unless otherwise permitted by statute. Notice of
25 the subject matter of the regulation, the action proposed, the

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1 time and place of the hearing, the manner in which interested
2 persons may present their views and the method by which copies
3 of the proposed rule, amendment or repeal of an existing
4 regulation may be obtained shall be published once at least
5 thirty days prior to the hearing date in a newspaper of general
6 circulation and mailed at least thirty days prior to the
7 hearing date to all persons who have made a written request for
8 advance notice of the hearing. All rules and regulations shall
9 be filed in accordance with the State Rules Act.

10 Section 9. [NEW MATERIAL] ORGANIZATIONAL UNITS OF THE
11 DEPARTMENT-- POWERS AND DUTIES SPECIFIED BY LAW-- ACCESS TO
12 INFORMATION.-- Those organizational units of the department and
13 the officers of those units specified by law shall have all of
14 the powers and duties enumerated in the specific laws involved.
15 However, the carrying out of those powers and duties shall be
16 subject to the direction and supervision of the secretary, who
17 shall retain the final decision-making authority and
18 responsibility for the administration of any laws as provided
19 in the Department of Motor Vehicles Act. The department shall
20 have access to all records, data and information of other state
21 departments, agencies and institutions, including its own
22 organizational units, not specifically held confidential by
23 law.

24 Section 10. [NEW MATERIAL] ADVISORY COMMITTEES.--

25 A. The secretary may create advisory committees.

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1 As used in this section, "advisory" means furnishing advice,
2 gathering information, making recommendations and performing
3 other activities as may be instructed or delegated and as may
4 be necessary to fulfill advisory functions or to comply with
5 federal or private funding requirements. Advisory committee
6 duties do not extend to administering a program or function or
7 setting policy unless specified by law. Advisory committees
8 shall be appointed in accordance with the provisions of the
9 Executive Reorganization Act.

10 B. Members of advisory committees appointed under
11 the authority of this section shall be reimbursed for per diem
12 and mileage as provided in the Per Diem and Mileage Act and
13 shall receive no other compensation, perquisite or allowance.

14 Section 11. Section 7-15-2.1 NMSA 1978 (being Laws 1988,
15 Chapter 73, Section 23, as amended) is amended to read:

16 "7-15-2.1. DEFINITIONS.--As used in the Trip Tax Act:

17 A. "combination gross vehicle weight" means the sum
18 total of the gross vehicle weights of all units of a
19 combination;

20 B. "commercial motor carrier vehicle" means any
21 motor vehicle with a gross weight of twelve thousand pounds or
22 more used or reserved for use in the transportation of persons,
23 property or merchandise for hire, compensation or profit or in
24 the furtherance of a commercial enterprise or any vehicle used
25 or maintained primarily for the transportation of property or

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1 merchandise or for drawing other vehicles so used or
2 maintained;

3 C. "department" means the department of [~~public~~
4 ~~safety~~] motor vehicles, the secretary of [~~public-safety~~] motor
5 vehicles and any employee of that department exercising
6 authority lawfully delegated to that employee by the secretary;

7 D. "gross vehicle weight" means the weight of a
8 vehicle without load, plus the weight of any load [~~thereon~~];

9 E. "motor vehicle" means every vehicle which is
10 self-propelled and every vehicle which is propelled by electric
11 power obtained from batteries or from overhead trolley wires,
12 but not operated upon rails;

13 F. "registrant" means the person who has registered
14 the vehicle pursuant to the laws of this state or another
15 state;

16 G. "trip tax" means the use fee imposed under the
17 Trip Tax Act; and

18 H. "vehicle" means every device in, upon or by
19 which any person or property is or may be transported or drawn
20 upon a highway, including any frame, chassis or body of any
21 vehicle or motor vehicle, except devices moved by human power
22 or used exclusively upon stationary rails or tracks. "

23 Section 12. Section 7-15A-12 NMSA 1978 (being Laws 2003
24 (1st S.S.), Chapter 3, Section 6) is amended to read:

25 "7-15A-12. WEIGHT DISTANCE TAX IDENTIFICATION PERMITS--

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1 SUSPENSION AND RENEWAL. --

2 A. An operator of a motor vehicle registered in
3 this state and subject to the weight distance tax shall display
4 a weight distance tax identification permit issued for that
5 vehicle to an enforcement officer of the department of [~~public~~
6 ~~safety~~] motor vehicles upon demand of that employee and when
7 the vehicle passes through a port of entry.

8 B. The department may suspend or decline to renew a
9 weight distance tax identification permit for a motor vehicle
10 if the owner or operator of the vehicle does not comply with
11 the provisions of the Weight Distance Tax Act. "

12 Section 13. Section 9-11-4 NMSA 1978 (being Laws 1977,
13 Chapter 249, Section 4, as amended) is amended to read:

14 "9-11-4. DEPARTMENT ESTABLISHED.--There is created in the
15 executive branch the "taxation and revenue department". The
16 department shall be a cabinet department and shall consist of,
17 but not be limited to, an administrative services division and
18 [~~four~~] three program divisions as follows:

- 19 A. the audit and compliance division;
- 20 B. the property tax division; and
- 21 C. the revenue processing division [~~and~~
- 22 ~~D. the motor vehicle division~~]. "

23 Section 14. Section 9-19-4 NMSA 1978 (being Laws 1987,
24 Chapter 254, Section 4, as amended) is amended to read:

25 "9-19-4. DEPARTMENT ESTABLISHED.--There is created in the

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1 executive branch the "department of public safety". The
2 department shall be a cabinet department and shall consist of,
3 but not be limited to, [~~five~~] four program divisions and one
4 administrative division, as follows:

- 5 A. the New Mexico state police division;
- 6 B. the special investigations division;
- 7 C. the training and recruiting division;
- 8 D. the technical and emergency support division;

9 and

- 10 E. the administrative services division [~~and~~
- 11 F. ~~the motor transportation division~~]. "

12 Section 15. Section 65-1-2 NMSA 1978 (being Laws 1978,
13 Chapter 19, Section 1, as amended) is amended to read:

14 "65-1-2. DEFINITIONS.--As used in the Motor
15 Transportation Act:

16 A. "combination" means any connected assemblage of
17 a motor vehicle and one or more semitrailers, trailers or
18 semitrailers converted to trailers by means of a converter
19 gear;

20 B. "combination gross vehicle weight" means the sum
21 total of the gross vehicle weights of all units of a
22 combination;

23 C. "commercial motor carrier vehicle" means a self-
24 propelled or towed vehicle, other than special mobile
25 equipment, used on public highways in commerce to transport

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1 passengers or property when the vehicle:

2 (1) is operated interstate and has a gross
3 vehicle weight rating or gross combination weight rating, or
4 gross vehicle weight or gross combination weight, of four
5 thousand five hundred thirty-six kilograms, or ten thousand one
6 pounds or more; or is operated only in intrastate commerce and
7 has a gross vehicle weight rating or gross combination weight
8 rating, or gross vehicle weight or gross combination weight, of
9 twenty-six thousand one or more pounds;

10 (2) is designed or used to transport more than
11 eight passengers, including the driver, and is used to
12 transport passengers for compensation;

13 (3) is designed or used to transport more than
14 fifteen passengers, including the driver, and is not used to
15 transport passengers for compensation; or

16 (4) is used to transport hazardous materials
17 of the type or quantity requiring placarding under rules
18 prescribed by applicable federal or state law;

19 D. "converter gear" means any assemblage of one or
20 more axles with a fifth wheel mounted [~~thereon~~] designed for
21 use in a combination to support the front end of a semitrailer,
22 but not be permanently attached [~~thereto~~]. A "converter gear"
23 shall not be considered a vehicle as that term is used in
24 Chapter 66 NMSA 1978, but its weight [~~attributable thereto~~]
25 shall be included in declared gross weight;

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1 E. "declared gross weight" means maximum gross
2 vehicle weight or combination gross vehicle weight at which a
3 vehicle or combination will be operated during the registration
4 period as declared by the registrant for registration and fee
5 purposes. The vehicle or combination shall have only one
6 "declared gross weight" for all operating considerations;

7 F. "department", without modification, means the
8 department of [~~public safety~~] motor vehicles, the secretary of
9 [~~public safety~~] motor vehicles or any employee of the
10 department exercising authority lawfully delegated to that
11 employee by the secretary;

12 G. "director" means the secretary;

13 H. "division" means the motor transportation
14 division of the department;

15 I. "evidence of registration" means documentation
16 issued by the [~~taxation and revenue~~] department identifying a
17 motor carrier vehicle as being registered with New Mexico or
18 documentation issued by another state pursuant to the terms of
19 a multistate agreement on registration of vehicles to which
20 this state is a party identifying a motor carrier vehicle as
21 being registered with that state; provided that evidence of
22 payment of the weight distance tax and permits obtained under
23 either the Special Fuels Supplier Tax Act or Trip Tax Act are
24 not "evidence of registration";

25 J. "field enforcement" or "in the field" means

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1 patrolling of the highway, stopping of commercial motor carrier
2 vehicles or establishing ports of entry and roadblocks for the
3 purpose of checking motor carriers and includes similar
4 activities;

5 K. "freight trailer" means any trailer, semitrailer
6 or pole trailer drawn by a truck tractor or road tractor and
7 any trailer, semitrailer or pole trailer drawn by a truck that
8 has a gross vehicle weight of more than twenty-six thousand
9 pounds, but the term does not include house trailers, trailers
10 of less than one-ton carrying capacity used to transport
11 animals or fertilizer trailers of less than three thousand five
12 hundred pounds empty weight;

13 L. "gross vehicle weight" means the weight of a
14 vehicle without load plus the weight of any load ~~[thereon]~~;

15 M "motor carrier" means any person that owns,
16 controls, operates or manages any motor vehicle with gross
17 vehicle weight of twelve thousand pounds or more that is used
18 to transport persons or property on the public highways of this
19 state;

20 N. "motor vehicle" means any vehicle or device that
21 is propelled by an internal combustion engine or electric motor
22 power that is used or may be used on the public highways for
23 the purpose of transporting persons or property and includes
24 any connected trailer or semitrailer;

25 O. "one-way rental fleet" means two or more

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1 vehicles each having a gross vehicle weight of under twenty-six
2 thousand one pounds and rented to the public without a driver;

3 P. "person" means any individual, estate, trust,
4 receiver, cooperative association, club, corporation, company,
5 firm, partnership, joint venture, syndicate or other
6 association; "person" also means, to the extent permitted by
7 law, any federal, state or other governmental unit or
8 subdivision or an agency, department or instrumentality
9 [thereof]; "person" also includes an officer or employee of a
10 corporation, a member or employee of a partnership or any
11 individual who, as such, is under a duty to perform any act in
12 respect of which a violation occurs;

13 Q. "properly registered" means bearing the lawfully
14 issued and currently valid evidence of registration of this or
15 another jurisdiction, regardless of the owner's residence,
16 except in those cases where the evidence has been procured by
17 misrepresentation or fraud;

18 R. "public highway" means every way or place
19 generally open to the use of the public as a matter of right
20 for the purpose of vehicular travel, even though it may be
21 temporarily closed or restricted for the purpose of
22 construction, maintenance, repair or reconstruction;

23 S. "secretary" means the secretary of [public
24 safety] motor vehicles and, except for the purposes of Section
25 65-1-33 NMSA 1978, also includes [the] a deputy secretary and

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1 any division director delegated by the secretary;

2 T. "state" or "jurisdiction" means a state,
3 territory or possession of the United States, the District of
4 Columbia, the commonwealth of Puerto Rico, a foreign country or
5 a state or province of a foreign country; and

6 U. "utility trailer" means any trailer, semitrailer
7 or pole trailer and includes house trailers that exceed neither
8 eight feet in width nor forty feet in length, but does not
9 include freight trailers, trailers of less than one-ton
10 carrying capacity used to transport animals or fertilizer
11 trailers of less than three thousand five hundred pounds empty
12 weight. "

13 Section 16. Section 65-1-9 NMSA 1978 (being Laws 1967,
14 Chapter 97, Section 11, as amended) is amended to read:

15 "65-1-9. DEPARTMENT TO ENFORCE LAWS- - DETENTION OF
16 VEHICLES. - -

17 A. The department shall enforce and collect all
18 [~~excise~~] taxes, license fees and other fees and charges of
19 every nature and perform all inspections and collect all
20 information considered necessary to enforce the laws [~~of all~~
21 ~~departments, commissions and other agencies of state~~
22 ~~government, in addition to those~~] specifically assigned to the
23 department.

24 B. Whenever the department is [~~so~~] requested and
25 agrees [~~and the agreement is~~] in writing [~~containing all~~

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1 ~~reasonable detail concerning the responsibilities of the~~
2 ~~parties to the agreement], it may enforce and collect taxes,~~
3 ~~license fees and other fees and charges assigned to other state~~
4 ~~agencies.~~

5 C. Upon inspection of a commercial motor carrier
6 vehicle, if a law enforcement officer of the department
7 determines that taxes, fees or charges attributable to that
8 vehicle are owed to the state and are past due, the vehicle may
9 be detained until the taxes, fees or charges are paid; provided
10 that the department shall first promulgate a rule establishing
11 a process by which amounts owed shall be verified, detention of
12 the vehicle imposed, payment verified and detention of the
13 vehicle released.

14 D. The department shall [also] assist, as far as
15 practicable and in accordance with a proper written agreement,
16 in the enforcement of statutory, administrative and judicial
17 provisions of the federal Motor Carrier Act. "

18 Section 17. Section 65-2A-4 NMSA 1978 (being Laws 2003,
19 Chapter 359, Section 4) is amended to read:

20 "65-2A-4. POWERS AND DUTIES OF THE COMMISSION. --

21 A. In accordance with the Motor Carrier Act, the
22 commission shall:

23 (1) issue operating authorities for a motor
24 carrier operating in New Mexico;

25 (2) establish minimum requirements for

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1 financial responsibility for a motor carrier;

2 (3) establish safety requirements for
3 intrastate motor carrier motor vehicles and drivers subject to
4 the jurisdiction of the commission, provided that the safety
5 requirements shall not be inconsistent with or more stringent
6 than applicable federal safety standards;

7 (4) establish reasonable requirements with
8 respect to continuous and adequate service to be provided under
9 an operating authority;

10 (5) regulate the rates of intrastate common
11 motor carriers of persons and household goods and towing
12 services performing nonconsensual tows, including rates for
13 storing household goods and motor vehicles;

14 (6) determine matters of public convenience
15 and necessity relating to motor carriers;

16 (7) subpoena witnesses and records, enforce
17 its subpoenas through a court and, through the court, seek a
18 remedy for contempt;

19 (8) hold a public hearing specific to a
20 protest or request that has been filed timely in opposition to
21 or in consideration of an application; and

22 (9) adopt rules, issue orders and conduct
23 activities necessary to implement and enforce the Motor Carrier
24 Act.

25 B. The commission may:

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1 (1) designate inspectors who may inspect the
2 records of a motor carrier subject to the Motor Carrier Act and
3 who shall have the powers of peace officers in the state's
4 political subdivisions with respect to a law or rule that the
5 commission is empowered to enforce pursuant to Section 65-1-6
6 NMSA 1978, excluding the enforcement authority granted to the
7 motor transportation division of the department of [~~public~~
8 safety] motor vehicles;

9 (2) institute civil actions in the district
10 court of Santa Fe county in its own name to enforce the Motor
11 Carrier Act, its orders and rules, and in the name of the state
12 to recover assessments of administrative fines;

13 (3) from time to time, modify the type of
14 service, territory, terms, conditions and limitations of
15 operating authorities previously issued, and change or rescind
16 rates previously adopted as needed; and

17 (4) adopt rules to implement these powers. "

18 Section 18. Section 65-2A-19 NMSA 1978 (being Laws 2003,
19 Chapter 359, Section 19) is amended to read:

20 "65-2A-19. SAFETY REQUIREMENTS FOR MOTOR VEHICLES AND
21 DRIVERS USED IN COMPENSATED TRANSPORTATION. --

22 A. A motor carrier shall provide safe and adequate
23 service, equipment and facilities for the rendition of
24 transportation services in this state.

25 B. The commission shall prescribe safety

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1 requirements for drivers and for motor vehicles weighing
2 twenty-six thousand pounds or less or carrying fifteen or fewer
3 persons, including the driver, used by intrastate motor
4 carriers operating in this state. The commission may prescribe
5 additional requirements related to safety, including driver
6 safety training programs, vehicle preventive maintenance
7 programs, inquiries regarding the safety of the motor vehicles
8 and drivers employed by a motor carrier, and the
9 appropriateness of the motor vehicles and equipment for the
10 transportation services to be provided by the motor carrier.

11 C. A commuter service shall certify that it has a
12 program providing for an initial drug test for a person seeking
13 to be a commuter service driver. The program shall use
14 reasonable collection and analysis procedures to ensure
15 accurate results, require testing only for substances
16 controlled by federal regulation of commercial motor carriers
17 and ensure the confidentiality of the test results and medical
18 information obtained.

19 D. The motor transportation division of the
20 department of [~~public safety~~] motor vehicles may immediately
21 order, without notice or a public hearing, a motor vehicle to
22 be taken out of service for violation of a federal or state law
23 or rule relating to safety if the violation would endanger the
24 public health or safety. "

25 Section 19. Section 65-2A-27 NMSA 1978 (being Laws 2003,

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1 Chapter 359, Section 27) is amended to read:

2 "65-2A-27. INVOLUNTARY SUSPENSION, REVOCATION OR
3 AMENDMENT OF OPERATING AUTHORITIES-- REINSTATEMENT. --

4 A. The commission shall immediately suspend,
5 without notice or a public hearing, the operating authority of
6 a motor carrier for failure to continuously maintain the forms
7 and amounts of financial responsibility prescribed by
8 commission rule.

9 B. The commission may immediately suspend, without
10 notice or a public hearing, the operating authority of a motor
11 carrier for violation of a safety requirement of the Motor
12 Carrier Act, the commission's rules or the rules of the motor
13 transportation division of the department of [~~public safety~~]
14 motor vehicles, if the violation endangers the public health or
15 safety.

16 C. The commission may, upon complaint or the
17 commission's own initiative and after notice and a public
18 hearing, if required, order involuntary suspension, revocation
19 or amendment, in whole or in part, of an operating authority
20 for failure to:

- 21 (1) comply with a provision of the Motor
22 Carrier Act;
23 (2) comply with a lawful order or rule of the
24 commission;
25 (3) comply with a term, condition or

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1 limitation of an operating authority; or

2 (4) render reasonably continuous and adequate
3 service under a certificate or permit.

4 D. The commission may approve an application for
5 reinstatement of an operating authority following involuntary
6 suspension if it finds, after notice and public hearing
7 requirements are met, that:

8 (1) the reasons for the involuntary suspension
9 no longer pertain; and

10 (2) the owner of the operating authority is
11 fit, willing and able to provide the authorized transportation
12 services and to comply with the Motor Carrier Act and the rules
13 of the commission. "

14 Section 20. Section 65-2A-29 NMSA 1978 (being Laws 2003,
15 Chapter 359, Section 29) is amended to read:

16 "65-2A-29. REPORTS AND RECORDS. --

17 A. The commission shall establish reasonable
18 requirements with respect to reports, records and uniform
19 systems of accounts and preservation of records for motor
20 carriers.

21 B. The commission may require a motor carrier
22 owning operating authority from the commission to prepare and
23 transmit to the commission an annual report of its operations.
24 The report shall be in the form, contain specific information,
25 including financial information, and be due on a date as the

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1 commission may by rule require. Financial data filed by motor
2 carriers in annual reports shall not be made available for
3 inspection by the public.

4 C. The commission or its employees or duly
5 authorized agents shall, at all times, have access to:

6 (1) land, buildings, improvements to real
7 property and equipment of motor carriers used in connection
8 with their operations; and

9 (2) records kept by motor carriers.

10 D. The commission may, by order, require a motor
11 carrier subject to the Motor Carrier Act, or its officers or
12 agents, to produce within this state at such reasonable time
13 and place as it may designate, original or certified copies of
14 records regardless of where they are kept by the motor carrier
15 when their production is pertinent to a matter before the
16 commission, in order that the commission may examine them.

17 E. The motor transportation division of the
18 department of [~~public safety~~] motor vehicles shall furnish to
19 the commission all information needed or required by the
20 commission to carry out its responsibilities when the
21 information is obtainable only through field enforcement."

22 Section 21. Section 66-1-4 NMSA 1978 (being Laws 1978,
23 Chapter 35, Section 4, as amended) is amended to read:

24 "66-1-4. DEFINITIONS. --

25 A. Sections 66-1-4.1 through 66-1-4.20 NMSA 1978

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1 define terms for general purposes of the Motor Vehicle Code.
2 When in a specific section of the Motor Vehicle Code a
3 different meaning is given for a term defined for general
4 purposes in Sections 66-1-4.1 through 66-1-4.20 NMSA 1978, the
5 specific section's meaning and application of the term shall
6 control.

7 B. All references in the Motor Vehicle Code and
8 elsewhere in the NMSA 1978 to Section 66-1-4 NMSA 1978 shall be
9 construed to include Sections 66-1-4.1 through 66-1-4.20 NMSA
10 1978.

11 [~~C. All references in the NMSA 1978 to the~~
12 ~~"department of motor vehicles" or "department" shall, whenever~~
13 ~~appropriate, mean the taxation and revenue department.~~

14 ~~D.]~~ C. All references in the NMSA 1978 to the
15 "commissioner of motor vehicles" or "commissioner" shall,
16 whenever appropriate, mean the secretary."

17 Section 22. Section 66-1-4.4 NMSA 1978 (being Laws 1990,
18 Chapter 120, Section 5, as amended) is amended to read:

19 "66-1-4.4. DEFINITIONS.--As used in the Motor Vehicle
20 Code:

21 A. "day" means calendar day, unless otherwise
22 provided in the Motor Vehicle Code;

23 B. "dealer", except as [herein] specifically
24 excluded, means any person who sells or solicits or advertises
25 the sale of new or used motor vehicles, manufactured homes or

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1 trailers subject to registration in this state; "dealer" does
2 not include:

3 (1) receivers, trustees, administrators,
4 executors, guardians or other persons appointed by or acting
5 under judgment, decree or order of any court;

6 (2) public officers while performing their
7 duties as such officers;

8 (3) persons making casual sales of their own
9 vehicles;

10 (4) finance companies, banks and other lending
11 institutions making sales of repossessed vehicles; or

12 (5) licensed brokers under the Manufactured
13 Housing Act who, for a fee, commission or other valuable
14 consideration, engage in brokerage activities related to the
15 sale, exchange or lease purchase of pre-owned manufactured
16 homes on a site installed for a consumer;

17 C. "declared gross weight" means the maximum gross
18 vehicle weight or combination gross vehicle weight at which a
19 vehicle or combination will be operated during the registration
20 period, as declared by the registrant for registration and fee
21 purposes; the vehicle or combination shall have only one
22 declared gross weight for all operating considerations;

23 D. "department" means the [~~taxation and revenue~~]
24 department of motor vehicles, the secretary of [~~taxation and~~
25 ~~revenue~~] motor vehicles or any employee of the department

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1 exercising authority lawfully delegated to that employee by the
2 secretary;

3 E. "designated disabled parking space" means any
4 space, including an access aisle, marked and reserved for the
5 parking of a passenger vehicle that carries registration plates
6 or a parking placard indicating disability in accordance with
7 Section 66-3-16 NMSA 1978, and designated by a conspicuously
8 posted sign bearing the international disabled symbol of a
9 wheelchair and if paved, by a clearly visible depiction of this
10 symbol painted in blue on the pavement of the space;

11 F. "director" means the secretary;

12 G. "disqualification" means a prohibition against
13 driving a commercial motor vehicle;

14 H. "distinguishing number" means the number
15 assigned by the department to a vehicle whose identifying
16 number has been destroyed or obliterated or the number assigned
17 by the department to a vehicle that has never had an
18 identifying number;

19 I. "distributor" means ~~any~~ a person who
20 distributes or sells new or used motor vehicles to dealers and
21 who is not a manufacturer;

22 J. "division", without further specification,
23 "division of motor vehicles" or "motor vehicle division" means
24 the department;

25 K. "driver" means every person who drives or is in

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1 actual physical control of a motor vehicle, including a
2 motorcycle, upon a highway, who is exercising control over or
3 steering a vehicle being towed by a motor vehicle or who
4 operates or is in actual physical control of an off-highway
5 motor vehicle;

6 L. "driver's license" means a license or a class of
7 license issued by a state or other jurisdiction to an
8 individual that authorizes the individual to drive a motor
9 vehicle; and

10 M "driveaway-towaway operation" means [~~any~~] an
11 operation in which any motor vehicle, new or used, is the item
12 being transported when one set or more of wheels of any such
13 motor vehicle is on the roadway during the course of
14 transportation, whether or not the motor vehicle furnishes the
15 motive power. "

16 Section 23. Section 66-1-4.16 NMSA 1978 (being Laws 1990,
17 Chapter 120, Section 17, as amended) is amended to read:

18 "66-1-4.16. DEFINITIONS. --As used in the Motor Vehicle
19 Code:

20 A. "safety glazing materials" means glazing
21 materials constructed, treated or combined with other materials
22 to reduce substantially, in comparison with ordinary sheet
23 glass or plate glass, the likelihood of injury to persons by
24 objects from exterior sources or by these safety glazing
25 materials when they are cracked and broken;

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1 B. "safety zone" means the area or space that is
2 officially set apart within a highway for the exclusive use of
3 pedestrians and that is protected or is so marked or indicated
4 by adequate signs as to be plainly visible at all times while
5 set apart as a safety zone;

6 C. "school bus" means a commercial motor vehicle
7 used to transport preprimary, primary or secondary school
8 students from home to school, from school to home or to and
9 from school-sponsored events, but not including a vehicle:

10 (1) operated by a common carrier, subject to
11 and meeting all requirements of the public regulation
12 commission but not used exclusively for the transportation of
13 [~~pupils~~] students;

14 (2) operated solely by a government-owned
15 transit authority, if the transit authority meets all safety
16 requirements of the public regulation commission but is not
17 used exclusively for the transportation of [~~pupils~~] students;
18 or

19 (3) operated as a per capita feeder as defined
20 in Section 22-16-6 NMSA 1978;

21 D. "seal" means the official seal of the [~~taxation~~
22 ~~and revenue~~] department as designated by the secretary;

23 E. "secretary" means the secretary of [~~taxation and~~
24 ~~revenue~~] motor vehicles, and, except for the purposes of
25 Sections 66-2-3 and 66-2-12 NMSA 1978, also includes [~~the~~] a

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1 deputy secretary and any division director delegated by the
2 secretary;

3 F. "semitrailer" means a vehicle without motive
4 power, other than a pole trailer, designed for carrying persons
5 or property and for being drawn by a motor vehicle and so
6 constructed that some significant part of its weight and that
7 of its load rests upon or is carried by another vehicle;

8 G. "sidewalk" means a portion of street between the
9 curb lines, or the lateral lines of a roadway, and the adjacent
10 property lines, intended for the use of pedestrians;

11 H. "slow-moving vehicle" means a vehicle that is
12 ordinarily moved, operated or driven at a speed less than
13 twenty-five miles per hour;

14 I. "solid tire" means every tire of rubber or other
15 resilient material that does not depend upon compressed air for
16 the support of the load;

17 J. "special mobile equipment" means a vehicle not
18 designed or used primarily for the transportation of persons or
19 property and incidentally operated or moved over the highways,
20 including but not limited to farm tractors, road construction
21 or maintenance machinery, ditch-digging apparatus, well-boring
22 apparatus and concrete mixers;

23 K. "specially constructed vehicle" means a vehicle
24 of a type required to be registered under the Motor Vehicle
25 Code not originally constructed under a distinctive name, make,

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1 model or type by a generally recognized manufacturer of
2 vehicles and not materially altered from its original
3 construction;

4 L. "state" means a state, territory or possession
5 of the United States, the District of Columbia or a province of
6 the Dominion of Canada;

7 M "state highway" means a public highway that has
8 been designated as a state highway by the legislature, the
9 state transportation commission or the secretary of
10 transportation;

11 N. "stop", when required, means complete cessation
12 from movement;

13 O. "stop, stopping or standing", when prohibited,
14 means any stopping or standing of a vehicle, whether occupied
15 or not, except when necessary to avoid conflict with other
16 traffic or in compliance with the directions of a police
17 officer or traffic-control sign or signal;

18 P. "street" or "highway" means a way or place
19 generally open to the use of the public as a matter of right
20 for the purpose of vehicular travel, even though it may be
21 temporarily closed or restricted for the purpose of
22 construction, maintenance, repair or reconstruction;

23 Q. "subsequent offender" means a person who was
24 previously a first offender and who again, under state law,
25 federal law or a municipal ordinance or a tribal law, has been

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1 adjudicated guilty of the charge of driving a motor vehicle
2 while under the influence of intoxicating liquor or any drug
3 that rendered ~~[him]~~ the person incapable of safely driving a
4 motor vehicle, regardless of whether the person's sentence was
5 suspended or deferred; and

6 R. "suspension" means that a person's driver's
7 license and privilege to drive a motor vehicle on the public
8 highways are temporarily withdrawn. "

9 Section 24. Section 66-1-4.17 NMSA 1978 (being Laws 1990,
10 Chapter 120, Section 18, as amended by Laws 2003, Chapter 141,
11 Section 1 and by Laws 2003, Chapter 164, Section 3) is amended
12 to read:

13 "66-1-4.17. DEFINITIONS. --As used in the Motor Vehicle
14 Code:

15 A. "tank vehicle" means a motor vehicle that is
16 designed to transport any liquid or gaseous material within a
17 tank that is either permanently or temporarily attached to the
18 vehicle or the chassis and that has either a gross vehicle
19 weight rating of twenty-six thousand one or more pounds or is
20 used in the transportation of hazardous materials requiring
21 placarding of the vehicle under applicable law;

22 B. "taxicab" means a motor vehicle used for hire in
23 the transportation of persons, having a normal seating capacity
24 of not more than seven persons;

25 C. "through highway" means every highway or portion

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1 [thereof] of a highway at the entrance to which vehicular
2 traffic from intersecting highways is required by law to stop
3 before entering or crossing it when stop signs are erected as
4 provided in the Motor Vehicle Code;

5 D. "title service company" means a person, other
6 than the department, an agent of the department, a licensed
7 dealer or the motor transportation division of the department
8 [of public safety], who for consideration issues temporary
9 registration plates or prepares and submits to the department
10 on behalf of others applications for registration of or title
11 to motor vehicles;

12 E. "traffic" means pedestrians, ridden or herded
13 animals, vehicles and other conveyances either singly or
14 together using any highway for purposes of travel;

15 F. "traffic-control signal" means any device,
16 whether manually, electrically or mechanically operated, by
17 which traffic is alternately directed to stop and to proceed;

18 G. "traffic safety bureau" means the traffic safety
19 bureau of the [state highway and] department of transportation
20 [department];

21 H. "trailer" means any vehicle without motive
22 power, designed for carrying persons or property and for being
23 drawn by a motor vehicle, and so constructed that no
24 significant part of its weight rests upon the towing vehicle;

25 I. "transportation inspector" means an employee of

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1 the motor transportation division of the department who has
2 been certified by the director of the division to enter upon
3 and perform inspections of motor carriers' vehicles in
4 operation;

5 [I-] J. "transporter of manufactured homes" means a
6 commercial motor vehicle operation engaged in the business of
7 transporting manufactured homes from the manufacturer's
8 location to the first dealer's location. A "transporter of
9 manufactured homes" may or may not be associated with or
10 affiliated with a particular manufacturer or dealer;

11 [J-] K. "travel trailer" means a trailer with a
12 camping body and includes recreational travel trailers and
13 camping trailers;

14 [K-] L. "trial court" means the magistrate,
15 municipal or district court that tries the case concerning an
16 alleged violation of a provision of the Motor Vehicle Code;

17 [L-] M. "tribal court" means a court created by a
18 tribe or a court of Indian offense created by the United States
19 secretary of the interior;

20 [M-] N. "tribe" means an Indian nation, tribe or
21 pueblo located wholly or partially in New Mexico;

22 [N-] O. "truck" means every motor vehicle designed,
23 used or maintained primarily for the transportation of
24 property;

25 [O-] P. "truck camper" means a camping body

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1 designed to be loaded onto, or affixed to, the bed or chassis
2 of a truck. A camping body, when combined with a truck or
3 truck cab and chassis, even though not attached permanently,
4 becomes a part of the motor vehicle, and together they are a
5 recreational unit to be known as a "truck camper"; there are
6 three general types of truck campers:

7 (1) "slide-in camper" means a camping body
8 designed to be loaded onto and unloaded from the bed of a
9 pickup truck;

10 (2) "chassis-mount camper" means a camping
11 body designed to be affixed to a truck cab and chassis; and

12 (3) "pickup cover" or "camper shell" means a
13 camping body designed to provide an all-weather protective
14 enclosure over the bed of a pickup truck and to be affixed
15 [~~thereto~~] to the pickup truck; and

16 [P.] Q. "truck tractor" means every motor vehicle
17 designed and used primarily for drawing other vehicles and not
18 so constructed as to carry a load other than a part of the
19 weight of the vehicle and load so drawn."

20 Section 25. Section 66-5-66 NMSA 1978 (being Laws 1989,
21 Chapter 14, Section 15) is amended to read:

22 "66-5-66. APPLICANT RECORD INFORMATION-- INFORMATION
23 EXCHANGE. --

24 A. Before issuing a commercial driver's license,
25 the division shall obtain pertinent driving record information

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1 from each state where the applicant has been licensed, through
2 a multistate data base, or from each state.

3 B. The ~~[taxation and revenue]~~ department shall have
4 the authority to exchange commercial driver's license
5 information as it deems necessary to carry out the provisions
6 of the New Mexico Commercial Driver's License Act. "

7 Section 26. Section 66-6-4 NMSA 1978 (being Laws 1978,
8 Chapter 35, Section 339, as amended) is amended to read:

9 "66-6-4. REGISTRATION FEES--TRUCKS, TRUCK TRACTORS, ROAD
10 TRACTORS AND BUSES. --

11 A. ~~[Within their respective jurisdictions, the~~
12 ~~motor vehicle division and the motor transportation division~~
13 ~~of]~~ The department ~~[of public safety]~~ shall charge registration
14 fees for trucks, truck tractors, road tractors and buses,
15 except as otherwise provided by law, according to the schedule
16 ~~[of Subsection B of]~~ in this section.

B. Declared Gross Weight	Fee
001 to 4,000	\$ 40
4,001 to 6,000	55
6,001 to 8,000	69
8,001 to 10,000	84
10,001 to 12,000	99
12,001 to 14,000	113
14,001 to 16,000	128
16,001 to 18,000	143

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1	18,001 to 20,000	157
2	20,001 to 22,000	172
3	22,001 to 24,000	187
4	24,001 to 26,000	201
5	26,001 to 48,000	118
6	48,001 and over	172.

7 C. All trucks whose declared gross weight or whose
8 gross vehicle weight is less than twenty-six thousand pounds,
9 after five years of registration, calculated from the date when
10 the vehicle was first registered in this or another state,
11 shall be charged registration fees at eighty percent of the
12 rate set out in [~~Subsection B of~~] this section.

13 D. All trucks with a gross vehicle weight of more
14 than twenty-six thousand pounds and all truck tractors and road
15 tractors used to tow freight trailers shall be registered on
16 the basis of combination gross vehicle weight.

17 E. All trucks with a gross vehicle weight of
18 twenty-six thousand pounds or less shall be registered on the
19 basis of gross vehicle weight. A trailer, semitrailer or pole
20 trailer towed by a truck of such gross vehicle weight shall be
21 classified as a utility trailer for registration purposes
22 unless otherwise provided by law.

23 F. All farm vehicles having a declared gross weight
24 of more than six thousand pounds shall be charged registration
25 fees of two-thirds of the rate of the respective fees provided

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1 in this section and shall be issued distinctive registration
2 plates. "Farm vehicle" means a vehicle owned by a person whose
3 principal occupation is farming or ranching and which vehicle
4 is used principally in the transportation of farm and ranch
5 products to market and farm and ranch supplies and livestock
6 from the place of purchase to farms and ranches in this state;
7 provided that the vehicle is not used for hire.

8 G. In addition to other registration fees imposed
9 by this section, beginning July 1, 1994, there is imposed at
10 the time of registration an annual tire recycling fee of one
11 dollar fifty cents (\$1.50) on each vehicle subject to a
12 registration fee pursuant to this section, except for vehicles
13 with a declared gross weight of greater than twenty-six
14 thousand pounds upon which registration fees are imposed by
15 [~~Subsection B of~~] this section.

16 H. Three percent of registration fees of trucks
17 having from twenty-six thousand one pounds to forty-eight
18 thousand pounds declared gross vehicle weight is to be
19 transferred to the tire recycling fund pursuant to the
20 provisions of Section 66-6-23 NMSA 1978.

21 I. Three and seventy-five hundredths percent of
22 registration fees of trucks in excess of forty-eight thousand
23 pounds declared gross vehicle weight is to be transferred to
24 the tire recycling fund pursuant to the provisions of Section
25 66-6-23 NMSA 1978. "

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1 Section 27. Section 66-7-411 NMSA 1978 (being Laws 1978,
2 Chapter 35, Section 482, as amended) is amended to read:

3 "66-7-411. AUTHORIZED REPRESENTATIVE MAY WEIGH VEHICLES
4 AND REQUIRE REMOVAL OF EXCESS LOADS--GRADUATED PENALTIES. --

5 A. Any police officer with the [~~motor~~
6 ~~transportation division~~] department or the New Mexico state
7 police division of the department of public safety, having
8 reason to believe that the weight of a vehicle and load is
9 unlawful, may require the driver to stop and submit to weighing
10 of the vehicle and load by means of either portable or
11 stationary scales and may require the vehicle to be driven to
12 the nearest scales approved by the department [~~of public~~
13 ~~safety~~] if the scales are within five miles.

14 B. When a police officer with the [~~motor~~
15 ~~transportation division~~] department or the New Mexico state
16 police division of the department of [~~the~~] public safety or a
17 transportation inspector, upon weighing a vehicle or
18 combination, determines that the gross vehicle weight or
19 combination gross vehicle weight exceeds the ~~maximum~~ authorized
20 by Sections 66-7-409 and 66-7-410 NMSA 1978, the officer or
21 inspector shall require the driver or owner of the vehicle or
22 combination to unload that portion of the load necessary to
23 decrease the gross vehicle weight or combination gross vehicle
24 weight to the authorized ~~maximum~~.

25 C. Any driver of a vehicle who fails or refuses to

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1 stop and submit the vehicle and load to weighing or who fails
2 or refuses, when directed by a duly authorized police officer
3 with the [~~motor transportation division~~] department or the New
4 Mexico state police division of the department of public safety
5 or a transportation inspector, upon a weighing of the vehicle,
6 to unload the vehicle and otherwise comply with the provisions
7 of this section is guilty of a misdemeanor.

8 D. Any shipper or any other person loading the
9 vehicle who intentionally overloads a vehicle [~~which he~~] that
10 the person has reason to believe will travel in that condition
11 upon a public highway is guilty of a misdemeanor and shall be
12 fined in accordance with [~~Subsection E of~~] this section.

13 E. In all cases of violations of weight
14 limitations, the penalties shall be assessed and imposed in
15 accordance with the following schedule:

WEIGHT OF EXCESS	
LOAD IN POUNDS	AMOUNT OF FINE
1 to 3,000	twenty-five dollars (\$25.00)
3,001 to 4,000	forty dollars (\$40.00)
4,001 to 5,000	seventy-five dollars (\$75.00)
5,001 to 6,000	one hundred twenty-five dollars (\$125)
6,001 to 7,000	two hundred dollars (\$200)
7,001 to 8,000	two hundred seventy-five dollars (\$275)
8,001 to 9,000	three hundred fifty dollars (\$350)
9,001 to 10,000	four hundred twenty-five dollars (\$425)

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1 over 10,000 five hundred dollars (\$500). "

2 Section 28. Section 66-7-412 NMSA 1978 (being Laws 1959,
3 Chapter 247, Section 1, as amended) is amended to read:

4 "66-7-412. SPECIAL FARM PERMITS. -- The [~~motor~~
5 ~~transportation division of the~~] department [~~of public safety~~]
6 shall have the authority to issue special permits at all ports
7 of entry where registration stations or places where inspection
8 and registration services are maintained by the [~~motor~~
9 ~~transportation division~~] department to all implements of
10 husbandry using the highways, including farm tractors, and to
11 the instrumentalities or vehicles that may be carrying the
12 implements of husbandry, including farm tractors, when the
13 securing of these permits is required by law. "

14 Section 29. Section 66-7-413 NMSA 1978 (being Laws 1978,
15 Chapter 35, Section 484, as amended) is amended to read:

16 "66-7-413. PERMITS FOR EXCESSIVE SIZE AND WEIGHT--SPECIAL
17 NOTIFICATION REQUIRED ON MOVEMENT OF MANUFACTURED HOMES. --

18 A. The department [~~of public safety~~] and local
19 highway authorities may, in their discretion, upon application
20 in writing and good cause being shown, issue a special permit
21 in writing authorizing the applicant to operate or move a
22 vehicle or load of a size or weight exceeding the maximum
23 specified in Sections 66-7-401 through 66-7-416 NMSA 1978 on a
24 highway under the jurisdiction of the state transportation
25 commission or local authorities. Except for the movement of

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1 manufactured homes, a permit may be granted, in cases of
2 emergency, for the transportation of loads on a certain unit or
3 combination of equipment for a specified period of time not to
4 exceed one year, and the permit shall contain the route to be
5 traversed, the type of load to be transported and any other
6 restrictions or conditions deemed necessary by the body
7 granting the permit. In every other case, the permit shall be
8 issued for a single trip and may designate the route to be
9 traversed and contain any other restrictions or conditions
10 deemed necessary by the body granting the permit. Every permit
11 shall be carried in the vehicle to which it refers and shall be
12 opened for inspection to any peace officer. It is a
13 misdemeanor for a person to violate a condition or term of the
14 special permit.

15 B. The department [~~of public safety~~] shall charge
16 and collect, when the movement consists of a load of a width of
17 twenty feet or greater for a distance of five miles or more,
18 the sum of three hundred dollars (\$300) a day or fraction
19 thereof to defray the cost of state or local police escort.
20 The permit issued and the fee charged shall be based upon the
21 entire movement at one time requiring police escort and not
22 upon the number of vehicles involved.

23 C. The department [~~of public safety~~] shall
24 promulgate rules in accordance with the State Rules Act
25 pertaining to safety practices, liability insurance and

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1 equipment for escort vehicles provided by the motor carrier
2 [~~himself~~] and for escort vehicles provided by a private
3 business in this state.

4 (1) The department [~~of public safety~~] shall
5 provide the escort personnel with a copy of applicable rules
6 and shall inspect the escort vehicles for the safety equipment
7 required by the rules. If the escort vehicles and personnel
8 meet the requirements set forth in the rules, the department
9 [~~of public safety~~] shall issue the special permit, but shall
10 not charge an escort fee. If [~~the motor carrier provides its~~
11 ~~own~~] escort vehicles and personnel are provided by the motor
12 carrier, the department [~~of public safety~~] shall require that
13 the motor carrier have a warrant issued by the public
14 regulation commission.

15 (2) The movement of vehicles upon the highways
16 of this state requiring a special permit and required to use an
17 escort of the type noted in Paragraph (1) of this subsection is
18 subject to department [~~of public safety~~] authority and
19 inspection at all times.

20 (3) The department of transportation shall
21 conduct engineering investigations and engineering inspections
22 to determine which four-lane highways are safe for the
23 operation or movement of manufactured homes without an escort.
24 After making that determination, the department of
25 transportation shall hold public hearings in the area of the

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1 state affected by the determination, after which it may adopt
2 rules designating those four-lane highways as being safe for
3 the operation or movement of manufactured homes without an
4 escort. If a portion of such a four-lane highway lies within
5 the boundaries of a municipality, the department of
6 transportation, after obtaining the approval of the municipal
7 governing body, shall include such portions in its rules.

8 D. Except for the movement of manufactured homes,
9 special permits may be issued for a single vehicle or
10 combination of vehicles by the department [~~of public safety~~]
11 for a period not to exceed one year for a fee of two hundred
12 fifty dollars (\$250). The permits may allow excessive height,
13 length and width for a vehicle or combination of vehicles or
14 load [~~thereon~~] and may include a provision for excessive weight
15 if the distance traveled by the vehicle or combination of
16 vehicles is within a one hundred twenty-five mile radius of the
17 origin of the trip. Utility service vehicles, operating with
18 special permits pursuant to this subsection, shall be exempt
19 from prohibitions or restrictions relating to hours or days of
20 operation or restrictions on movement because of poor weather
21 conditions.

22 E. Special permits for a single trip for a vehicle
23 or combination of vehicles or load [~~thereon~~] of excessive
24 weight, width, length and height may be issued by the
25 department [~~of public safety~~] for a single vehicle for a fee of

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1 twenty-five dollars (\$25.00) plus the product of two and one-
2 half cents (\$.025) for each two thousand pounds in excess of
3 eighty-six thousand four hundred pounds or major fraction
4 thereof multiplied by the number of miles to be traveled by the
5 vehicle or combination of vehicles on the highways of this
6 state.

7 F. If a vehicle for which a permit is issued
8 pursuant to this section is a manufactured home, the department
9 [of public safety] or local highway authority issuing the
10 permit shall furnish the following information to the property
11 tax division of the taxation and revenue department, which
12 shall forward the information:

13 (1) to the county assessor of a county from
14 which a manufactured home is being moved, the date the permit
15 was issued, the location being moved from, the location being
16 moved to if within the same county, the name of the owner of
17 the manufactured home and the identification and registration
18 numbers of the manufactured home;

19 (2) to the county assessor of any county in
20 this state to which a manufactured home is being moved, the
21 date the permit was issued, the location being moved from, the
22 location being moved to, the name of the owner of the
23 manufactured home and the registration and identification
24 numbers of the manufactured home; and

25 (3) to the owner of a manufactured home having

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1 a destination in this state, notification that the information
2 required in Paragraphs (1) and (2) of this subsection is being
3 given to the respective county assessors and that manufactured
4 homes are subject to property taxation.

5 G. Except as provided in Subsection H of this
6 section, if the movement of a manufactured home originates in
7 this state, a permit shall not be issued pursuant to Subsection
8 F of this section until the owner of the manufactured home or
9 the authorized agent of the owner obtains and presents to the
10 department [~~of public safety~~] proof that a certificate has been
11 issued by the county assessor or treasurer of the county in
12 which the manufactured home movement originates showing that
13 either:

14 (1) all property taxes due or to become due on
15 the manufactured home for the current tax year or any past tax
16 years have been paid, except for manufactured homes located on
17 an Indian reservation; or

18 (2) liability for property taxes on the
19 manufactured home does not exist for the current tax year or a
20 past tax year, except for manufactured homes located on an
21 Indian reservation.

22 H. The movement of a manufactured home from the lot
23 or business location of a manufactured home dealer to its
24 destination designated by an owner-purchaser is not subject to
25 the requirements of Subsection G of this section if the

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1 manufactured home movement originates from the lot or business
2 location of the dealer and the manufactured home was part of
3 the dealer's inventory prior to the sale to the owner-
4 purchaser; however, the movement of a manufactured home by a
5 dealer or the dealer's authorized agent as a result of a sale
6 or trade-in from a nondealer-owner is subject to the
7 requirements of Subsection G of this section whether the
8 destination is the business location of a dealer or some other
9 destination.

10 I. A permit shall not be issued pursuant to this
11 section for movement of a manufactured home whose width exceeds
12 eighteen feet with no more than a six-inch roof overhang on the
13 left side or twelve inches on the right side in addition to the
14 eighteen-foot width of the manufactured home. Manufactured
15 homes exceeding the limitations of this section shall only be
16 moved on dollies placed on the front and the rear of the
17 structure.

18 J. The secretary [~~of public safety~~] may by rule
19 provide for movers of manufactured homes to self-issue permits
20 for certain sizes of manufactured homes over specific routes.
21 The cost of a permit shall not be less than twenty-five dollars
22 (\$25.00).

23 K. The secretary [~~of public safety~~] may provide by
24 rule for dealers of implements of husbandry to self-issue
25 permits for the movement of certain sizes of implements of

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1 husbandry from the lot or business location of the dealer over
2 specific routes with specific escort requirements, if
3 necessary, to a destination designated by an owner-purchaser or
4 for purposes of a working demonstration on the property of a
5 proposed owner-purchaser. The department [~~of public safety~~]
6 shall charge a fee for each self-issued permit not to exceed
7 fifteen dollars (\$15.00).

8 L. A private motor carrier requesting an oversize
9 or overweight permit shall provide proof of insurance in at
10 least the following amounts:

11 (1) bodily injury liability, providing:

12 (a) fifty thousand dollars (\$50,000) for
13 each person; and

14 (b) one hundred thousand dollars
15 (\$100,000) for each accident; and

16 (2) property damage liability, providing
17 twenty-five thousand dollars (\$25,000) for each accident.

18 M. A motor carrier requesting an oversize permit
19 shall produce a copy of a warrant or a single state
20 registration receipt as evidence that the motor carrier
21 maintains the insurance minimums prescribed by the public
22 regulation commission.

23 N. The department [~~of public safety~~] may provide by
24 rule the time periods during which a vehicle or load of a size
25 or weight exceeding the maximum specified in Sections 66-7-401

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1 through 66-7-416 NMSA 1978 may be operated or moved by a motor
2 carrier on a highway under the jurisdiction of the state
3 transportation commission or local authorities.

4 0. Revenue from fees for special permits
5 authorizing vehicles and loads of excessive size or weight to
6 operate or move upon a highway under the jurisdiction of the
7 state transportation commission or local authorities shall be
8 collected for the department of transportation and transferred
9 to the state road fund. "

10 Section 30. Section 66-7-413.2 NMSA 1978 (being Laws
11 1989, Chapter 291, Section 1, as amended) is amended to read:

12 "66-7-413.2. ENGINEERING INVESTIGATIONS FOR VEHICLES IN
13 EXCESS OF ONE HUNDRED SEVENTY THOUSAND POUNDS. --

14 A. All vehicles with a gross vehicle weight in
15 excess of one hundred seventy thousand pounds shall require a
16 special permit as provided for in Section 66-7-413 NMSA 1978
17 and no such permit shall be issued unless:

18 (1) an engineering investigation and review
19 have been conducted to:

20 (a) establish whether the move could be
21 made without visible or documented damages to the portion of
22 road or bridges upon which the move is to be made;

23 (b) establish whether the move could be
24 made without visible or documented damages to any private
25 facilities along the road upon which the move is to be made;

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1 and

2 (c) estimate the cost for any necessary
3 modifications the move may cause; and

4 (2) when required, the applicant has submitted
5 to the [~~motor transportation division of the~~] department [~~of~~
6 ~~public safety~~] and the local highway authorities all pertinent
7 information requested of the applicant by the [~~motor~~
8 ~~transportation division of the~~] department [~~of public safety~~].

9 If the submitted data [~~is~~] are not acceptable to the [~~state~~
10 ~~highway and transportation~~] department of transportation, the
11 applicant will be advised by the [~~motor transportation division~~
12 ~~of the~~] department [~~of public safety~~] that engineering
13 investigations will be conducted by the [~~state highway and~~
14 ~~transportation~~] department of transportation and the cost
15 incurred by the [~~state highway and transportation~~] department
16 of transportation will be paid by the applicant as an added
17 cost to [~~his~~] the applicant's permit fee.

18 B. The [~~motor transportation division of the~~]
19 department [~~of public safety~~] shall adopt the necessary rules
20 and regulations for the development of data for an
21 investigation to determine whether to issue any special permit
22 pursuant to Section 66-7-413 NMSA 1978.

23 C. The applicant or the applicant's employer shall
24 pay the costs for any modifications to the road, bridges or
25 private facilities along the road that the [~~motor~~

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1 ~~transportation division of the~~ department [~~of public safety~~]
2 has determined are necessary for the issuance of the special
3 permit and the costs for any damages to the road or bridges
4 that are the result of the move and the fault of the mover and
5 not the [~~motor transportation division of the~~] department [~~of~~
6 ~~public safety~~].

7 D. Any person who violates the provisions of
8 [~~Subsection A of~~] this section [~~shall be~~] is guilty of a
9 misdemeanor and shall be punished by a fine of not more than
10 one thousand dollars (\$1,000) or imprisonment for a definite
11 term not to exceed six months, or both.

12 E. Nothing contained in this section shall limit in
13 any manner the authority of the state, a county, a municipality
14 or a political subdivision [~~thereof~~] to collect damages for any
15 unlawful use of highways as provided by law."

16 Section 31. Section 66-7-413.4 NMSA 1978 (being Laws
17 2001, Chapter 20, Section 2, as amended) is amended to read:

18 "66-7-413.4. PERMITS FOR EXCESSIVE WEIGHT. --

19 A. In addition to the authority granted in Section
20 66-7-413 NMSA 1978, the [~~motor transportation division of the~~]
21 department [~~of public safety~~] may issue special permits
22 authorizing an increase of up to twenty-five percent in axle
23 weight for liquid hauling tank vehicles whenever the liquid
24 hauling tank vehicles would have to haul less than a full tank
25 under the maximum weights authorized in Section 66-7-409 and

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1 66-7-410 NMSA 1978. A special permit under this section may be
2 issued for a single trip or for a year. The fee for the
3 permits shall be thirty-five dollars (\$35.00) for a single-trip
4 permit and one hundred twenty dollars (\$120) for an annual
5 permit. Revenue from the permit fee shall be used to build,
6 maintain, repair or reconstruct the highways and bridges of
7 this state. Revenue from the permit shall be collected for the
8 department of transportation and transferred to the state road
9 fund.

10 B. The special permits authorized by this section
11 shall not be valid for transportation of excessive weights on
12 the interstate system as currently defined in federal law or as
13 that system may be defined in the future. A special permit
14 issued pursuant to this section shall not be valid for gross
15 vehicle weights in excess of eighty-six thousand four hundred
16 pounds or for a combination vehicle.

17 C. If the federal highway administration of the
18 United States department of transportation gives official
19 notice that money will be withheld or that this section
20 violates the grandfather provision of 23 USCA 127, the
21 secretary may withdraw all special permits and discontinue
22 issuance of all special permits authorized in this section
23 until such time that final determination is made. If the final
24 determination allows the state to issue the special permits
25 without sanction of funds or weight tables, the secretary shall

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1 reissue the special permits previously withdrawn and make the
2 special permits available pursuant to this section. "

3 Section 32. Section 66-7-415 NMSA 1978 (being Laws 1955,
4 Chapter 37, Section 12, as amended) is amended to read:

5 "66-7-415. WHEN THE STATE TRANSPORTATION COMMISSION OR
6 LOCAL AUTHORITIES MAY RESTRICT RIGHT TO USE STREETS. --

7 A. Local authorities, with respect to streets under
8 their jurisdiction, may also, by ordinance or resolution,
9 prohibit the operation of trucks or other commercial vehicles
10 or may impose limitations as to [~~the~~] size or weight [~~thereof~~],
11 on designated streets in areas that are primarily residential,
12 which prohibitions and limitations shall be designated by
13 appropriate signs placed on [~~such~~] the street.

14 B. The local authority enacting an ordinance or
15 resolution shall erect or cause to be erected and maintained
16 signs designating the provisions of the ordinance or resolution
17 at each end of that portion of [~~any~~] the street affected, and
18 the ordinance or resolution shall not be effective [~~unless and~~]
19 until [~~such~~] signs are erected and maintained and notice
20 [~~thereof~~] given in writing to the nearest officer or employee
21 of [~~the motor transportation division of~~] the department [~~of~~
22 ~~public safety~~] authorized to issue special permits.

23 C. The state transportation commission shall
24 likewise have authority, as granted to local authorities in
25 Subsections A and B of this section, to determine by resolution

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1 and to impose restrictions as to the size and weight of
2 vehicles operated upon any highways under the jurisdiction of
3 the commission, and such restrictions shall be effective ~~on~~
4 ~~and after~~ upon the passage of a resolution and when signs
5 giving notice ~~[thereof]~~ are erected upon the highway or portion
6 of ~~[any]~~ the highway affected by ~~[such]~~ the resolution. The
7 commission shall deliver a copy of all restrictions adopted by
8 it to ~~[the motor transportation division of]~~ the department ~~[of~~
9 ~~public safety]~~."

10 Section 33. Section 66-7-505 NMSA 1978 (being Laws 1978,
11 Chapter 35, Section 492, as amended) is amended to read:

12 "66-7-505. ADVISORY COMMITTEE-- CREATION-- MEMBERS--
13 TERMS. --

14 A. There is created a five-member advisory
15 committee to the bureau. The chief is, ex officio, the
16 ~~[chairman]~~ chair and a voting member of the committee. The
17 governor shall appoint three members, to terms coterminous with
18 ~~[his]~~ the governor's tenure, who shall have the following
19 qualifications:

20 (1) one member who is representative of the
21 law enforcement agencies of this state;

22 (2) one member who is representative of the
23 school bus transportation function of the ~~[state department of~~
24 ~~public education]~~ public education department; and

25 (3) one member who is representative of the

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1 ~~[motor transportation division of the taxation and revenue]~~
2 department.

3 B. Appointees who are public officers or public
4 employees shall be compensated for attendance at meetings
5 according to the Per Diem and Mileage Act. Appointees who are
6 not public officers or employees shall be compensated for
7 attendance at meetings in commensurate amount."

8 Section 34. Section 66-12-6 NMSA 1978 (being Laws 1965,
9 Chapter 48, Section 1, as amended) is amended to read:

10 "66-12-6. DEALER AND MANUFACTURER NUMBERS--FEE--
11 CERTIFICATES OF ORIGIN--RECORDS.--

12 A. A dealer or manufacturer that demonstrates
13 motorboats on the public waters of this state shall file an
14 application for a dealer or manufacturer number. The number
15 shall be in lieu of a certificate of number for each motorboat
16 intended or offered for sale.

17 B. Application for a dealer or manufacturer number
18 shall be in the form prescribed by the division. The
19 application shall state that the applicant is a motorboat
20 dealer or manufacturer and that the applicant will operate a
21 motorboat upon the waters of this state only for test or
22 demonstration purposes. The statement shall be verified before
23 a state officer who is authorized to administer an oath. The
24 fee for a dealer or manufacturer number is ten dollars (\$10.00)
25 annually as prescribed by the division.

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1 C. The division shall issue a certificate of a
2 dealer or ~~manufacturer number~~ to an applicant who submits a
3 complete application and full payment of the dealer or
4 ~~manufacturer number~~ fee to the division. The certificate shall
5 be issued after the applicant obtains a dealer license from the
6 [~~motor vehicle division of the taxation and revenue~~] department
7 of motor vehicles and shall contain the following:

8 (1) a dealer or ~~manufacturer number~~ that
9 contains two state identification letters, followed by four
10 numbers and two additional letters that are unique to dealers
11 or ~~manufacturers~~;

12 (2) the expiration date of the certificate;

13 (3) the name and business address of the
14 applicant;

15 (4) the address of the principal place of
16 business of the applicant; and

17 (5) a conspicuous statement that the division
18 has certified the applicant as a dealer or ~~manufacturer~~.

19 D. The dealer or ~~manufacturer number~~ shall be
20 painted on or attached to plates that are firmly attached to
21 each side of the front of a motorboat of the dealer or
22 ~~manufacturer~~ while it is afloat upon the waters of this state.

23 E. A dealer or ~~manufacturer~~ who operates more than
24 one motorboat for test or demonstration purposes on the waters
25 of this state at the same time shall obtain and display a

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1 separate dealer or manufacturer number for each motorboat
2 tested or demonstrated.

3 F. A manufacturer or dealer shall not transfer
4 ownership of a new boat without supplying the transferee with
5 the manufacturer's certificate of origin signed by the
6 manufacturer's authorized agent. The certificate shall contain
7 information the division requires.

8 G. Every dealer shall maintain for three years a
9 record of any boat [he] the dealer bought, sold, exchanged or
10 received for sale or exchange. This record shall be open to
11 inspection by division representatives during reasonable
12 business hours. "

13 Section 35. Section 66-12-6.6 NMSA 1978 (being Laws 2003,
14 Chapter 410, Section 5) is amended to read:

15 "66-12-6.6. DEALER LICENSE. --

16 A. A person shall not engage in business as a
17 dealer or manufacturer without obtaining a valid dealer license
18 from the [~~motor vehicle division of the taxation and revenue~~]
19 department of motor vehicles, unless the person has a valid
20 motor vehicle dealer license. A dealer or manufacturer shall
21 annually file an application with the [~~motor vehicle division~~]
22 department of motor vehicles for a dealer license for each
23 established place of business of the dealer or manufacturer.

24 B. A person shall file an application for a dealer
25 license with the [~~motor vehicle division of the taxation and~~

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1 ~~revenue~~] department of motor vehicles on a form prescribed by
2 the [~~motor vehicle division~~] department. The application shall
3 contain the name, address and telephone number of the
4 applicant, the signature of the applicant or the signatures of
5 all of the officers of a corporate applicant, the address of
6 the established place of business, the federal taxpayer
7 identification number of the applicant and other information
8 that the [~~motor vehicle division~~] department of motor vehicles
9 may require. The application shall state that the applicant
10 will engage in business as a dealer. The statement shall be
11 verified before a state officer authorized to administer an
12 oath. The fee for a dealer license shall be prescribed by the
13 [~~motor vehicle division~~] department of motor vehicles but shall
14 not exceed fifty dollars (\$50.00) annually.

15 C. The [~~motor vehicle division of the taxation and~~
16 ~~revenue~~] department of motor vehicles shall issue a dealer
17 license to an applicant who submits a complete application and
18 full payment of the dealer license fee to the [~~motor vehicle~~
19 ~~division~~] department. The license shall contain the following:

- 20 (1) the license number;
- 21 (2) the expiration date of the license;
- 22 (3) the name and business address of the
23 licensee;
- 24 (4) the address of the location for which the
25 license was issued; and

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1 (5) a statement requiring that the license be
2 conspicuously displayed at the location for which the license
3 was issued.

4 D. A dealer license shall specify the location of
5 each place of business in which the licensee engages in
6 business as a dealer. The dealer shall notify the [~~motor~~
7 ~~vehicle division of the taxation and revenue~~] department of
8 motor vehicles of a change of ownership, location or name of
9 the place of business within ten days of the change.

10 E. A dealer license shall authorize the licensed
11 activity at only one business establishment. A dealer shall
12 obtain a supplemental license from the [~~motor vehicle division~~
13 ~~of the taxation and revenue~~] department of motor vehicles for
14 each additional establishment owned or operated by the dealer.
15 The application for a supplemental license shall be in a form
16 prescribed by the [~~motor vehicle division~~] department. The
17 [~~motor vehicle division~~] department shall issue a supplemental
18 license to an applicant who possesses a valid dealer license,
19 submits a complete application and meets all other requirements
20 of the [~~motor vehicle division~~] department.

21 F. A dealer license or supplemental license shall
22 be conspicuously displayed at the location of the established
23 place of business for which it was issued."

24 Section 36. Section 66-12-6.7 NMSA 1978 (being Laws 2003,
25 Chapter 410, Section 6) is amended to read:

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1 "66-12-6.7. DEALER LICENSE DENIAL, SUSPENSION AND
2 REVOCATION. -- The [~~motor vehicle division of the taxation and~~
3 ~~revenue~~] department of motor vehicles may deny, suspend or
4 revoke a dealer license for:

5 A. a material misrepresentation communicated by a
6 dealer to the [~~motor vehicle division~~] department;

7 B. a lack of fitness as proscribed by rule of the
8 [~~motor vehicle division~~] department; or

9 C. a willful violation of a federal or state law
10 relating to the sale, distribution, financing, registration,
11 taxing or insuring of motorboats. "

12 Section 37. Section 66-12-6.8 NMSA 1978 (being Laws 2003,
13 Chapter 410, Section 7) is amended to read:

14 "66-12-6.8. DEALER BONDS--REQUIRED INSURANCE. --A person
15 licensed as a dealer pursuant to the Boat Act shall file with
16 the [~~state parks~~] division a bond in the amount of fifty
17 thousand dollars (\$50,000) unless there is a bond on file with
18 the [~~motor vehicle division of the taxation and revenue~~]
19 department of motor vehicles for a motor vehicle dealer's
20 license and such proof is submitted to the [~~state parks~~]
21 division. The bond shall be issued by a corporate surety
22 licensed to conduct business within the state. The bond shall
23 be issued under the condition that the applicant shall not
24 practice fraud or violate any provision of the Boat Act. A
25 person who has obtained a dealer license shall furnish evidence

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1 that the person has liability insurance for the established
2 place of business for which the license was obtained. "

3 Section 38. TEMPORARY PROVISION--TRANSFER OF PERSONNEL,
4 PROPERTY AND CONTRACTS.--On the effective date of this act:

5 A. all personnel of the motor vehicle division of
6 the taxation and revenue department and all personnel of the
7 motor transportation division of the department of public
8 safety are transferred to the department of motor vehicles;

9 B. all appropriations, money, records, property,
10 equipment and supplies of the motor vehicle division of the
11 taxation and revenue department and all appropriations, money,
12 records, property, equipment and supplies of the motor
13 transportation division of the department of public safety are
14 transferred to the department of motor vehicles; and

15 C. all contracts, grants and agreements of the
16 taxation and revenue department relating to the motor vehicle
17 division and all contracts, grants and agreements of the
18 department of public safety relating to the motor
19 transportation division are transferred to the department of
20 motor vehicles.

21 Section 39. EFFECTIVE DATE.--The effective date of the
22 provisions of this act is July 1, 2005.